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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,978	11/12/2003	Richard Baron	AVERP3423USB	7346

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EXAMINER

TARAZANO, DONALD LAWRENCE

ART UNIT	PAPER NUMBER
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1773

DATE MAILED: 11/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/712,978

Applicant(s)

BARON ET AL.

Examiner

D. Lawrence Tarazano

Art Unit

1773

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 9-01-04.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-52 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 18-32 and 34-47 is/are allowed.
- 6) ☒ Claim(s) 1,2,5-13,15-17,33 and 48-52 is/are rejected.
- 7) ☒ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f):
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 6-13, 17, 33 and 48-52 are rejected under 35 U.S.C. 102(b) as being anticipated by Walker et al. (6,001,916)
3. Walker et al. teach EVA emulsions used for adhesives (column 1, lines 9-16). The EVA emulsions are made in the presence of a surfactant (column 3, lines 60+) and 1-5% polyvinyl alcohol (column 3, lines 20-38). These materials are used as coatings so they meet the limitations regarding coated articles. Coating a substrate with the materials would meet the claim limitations related to making the materials more hydrophilic. Walker et al. teach that the adhesive is used in packaging applications such as “vinyl laminating”. This is interpreted as laminating a vinyl (a type of polymer) film.
4. Claims 1, 7-13, 15 17 and 48-52 are rejected under 35 U.S.C. 102(b) as being anticipated by Freidzon (5,936,020).
5. Freidzon teaches coatings comprising EVA polymerized in the presence of polyvinyl alcohol and a surfactant. These coatings comprising additional additives such as de-foamers (column 5, lines 5-15). Coating a substrate with the materials would meet the claim limitations

related to making the materials more hydrophilic. The US patent teaches that the adhesives are used to bind polymeric materials (vinyl), in the production of laminates (column 5, lines 66-65)

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. 1, 2, 5-13, 15-17, 33, and 48-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al (6,001,916), or

8. Claims 1, 2, 5, 7-13, 15-17 and 48-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Freidzon (5,936,020).

9. The applicants have amended the base claims to recite "polymer films" as the substrate, each of the references discussed above teach that the adhesive are useful making laminate structures with a "vinyl layer". It would have been obvious to one having ordinary skill in the art to have used polymer or vinyl films in the production of laminates since these would be useful in packaging applications.

10. The references above teach emulsions which can be used as coatings on substrates. Claim 2 encompasses a wide range of polymeric films. It would have been obvious to one

having ordinary skill in the art to have used the coating emulsions taught by Freidzon for coating plastic films in general since EVA has adhesive properties.

11. Regarding the thickness of the coating and the substrate. These features go directly to the end use of the film, and it would have been obvious to one having ordinary skill in the art to have varied them accordingly.

12. Since surfactants act as foaming agents, it would have been obvious to one having ordinary skill in the art to have added a defoamer to the compositions when there was a problem related to foaming.

Allowable Subject Matter

13. Claims 3, 4, and 14, 18-30, and 34-47 are allowed.

Response to Arguments

14. The applicants amended the claims to recite that the base structure is a "polymeric film", this amendment and the arguments in response dated 9-1-04 are not persuasive since each of the two references as discussed above clearly teach using the material for laminating "vinyl" layers and this is a type of polymer.

Conclusion

15. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to D. Lawrence Tarazano whose telephone number is (571)-272-1515. The examiner can normally be reached on 8:30 to 6:00 (off every other Friday).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Deborah Jones can be reached on (571)-272-1535. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

D. Lawrence Tarazano
Primary Examiner
Art Unit 1773

